

§510.6 Administrative depositions.

(a) NHTSA may issue a subpoena to compel any person, sole proprietorship, partnership, corporation, or other entity to provide information as a witness at an administrative deposition. These depositions are for the purpose of obtaining information from the witness under oath and receiving documents and things relevant to an agency investigation. These depositions shall be taken before an officer authorized to administer oaths by the laws of the United States or of the place where the deposition is taken. Unless otherwise ordered by the Administrator, administrative depositions are closed to the public.

(b) Any person who is required by subpoena or designated by an entity that is required by subpoena to produce documents or things or to give testimony as a witness at an administrative deposition conducted under this section may be accompanied, represented, and advised by counsel. Any member of the bar or a Federal court or the courts of any State or Territory of the United States, the Commonwealth of Puerto Rico, or the District of Columbia and any representative, official, or employee of the person, sole proprietorship, partnership, corporation, or other entity under subpoena may act as counsel.

(c) During an administrative deposition:

(1) The presiding officer before whom the deposition is to be taken puts the witness on oath and personally, or by someone acting under his or her direction and in his or her presence, records the testimony of the witness. The testimony is stenographically reported.

(2) After NHTSA has examined the witness at the deposition, that witness' counsel or representative may examine the witness. NHTSA may then reexamine the witness and the witness' counsel or representative may reexamine the witness and so forth, as appropriate.

(3) A witness appearing in response to a subpoena may confer in confidence with his or her counsel or representative concerning any questions asked of the witness. If such witness, counsel, or representative objects to a question, he

or she shall state the objection and the basis therefor on the record.

(4) Objections to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, and any other objection to the proceedings shall be noted by the officer on the record, and shall be treated as continuing. Evidence objected to shall be taken subject to the objections. Errors and irregularities occurring at a deposition in the manner of the taking of the deposition, in the form of questions or answers, or in the oath or affirmation, and errors of any kind which might be obviated, removed, or cured if promptly presented shall be deemed to be waived unless reasonable objection is made thereto at the taking of the deposition.

(5) If the witness refuses to answer any question or answers evasively, or if the witness or his or her counsel engages in conduct likely to delay or obstruct the administrative deposition, such refusal, evasive answer or conduct shall be a failure to comply with the subpoena issued to the witness.

(6) Upon completion of the examination of a witness, the witness may clarify on the record any of his or her answers.

(d) The transcript of the testimony of a witness who testified in response to a subpoena at an administrative deposition is submitted to the witness for signature, unless the witness waives the right to sign the transcript. If a witness desires to make any changes in the form or substance contained in the transcript, the witness shall submit, together with the transcript, a separate document setting forth the changes and stating the reasons for such changes. If the deposition is not signed by the witness within 30 days of its submission to the witness, or such other period as the NHTSA may designate, the officer before whom the deposition was taken or a NHTSA employee signs the transcript and states on the record the fact of the waiver of the right to sign or the fact of the witness' unavailability or inability or refusal to sign together with the reasons, if any, given therefor.

(e) The transcript of the testimony of a witness will be inspected by NHTSA to determine if there are any errors in

the transcription of the questions posed to the witness and the testimony in response to those questions. If NHTSA discovers any errors, it notes that fact and forwards the notation of errors together with the transcript to the witness, requesting the witness to stipulate that the transcript is in error and that the corrections made by NHTSA are accurate. If the witness will not make this stipulation, NHTSA may make a motion to the presiding officer to include its notation of error and its corrections in the record along with the version of the testimony signed by the witness.

(f)(1) Upon payment of lawfully prescribed costs, any person who is required by subpoena or designated by a sole proprietorship, partnership, corporation, or other entity that is required by subpoena to appear as a witness at an administrative deposition may procure a copy of the deposition as recorded, except that in a nonpublic investigatory proceeding, the witness may, for good cause, be limited to an inspection of the record of the deposition.

(2) A copy of the record of the deposition may be furnished to the witness without charge or at a reduced charge if the Associate Administrator for Administration determines that waiver of the fee is in the public interest because furnishing the copy can be considered as primarily benefitting the general public. Any witness who seeks a waiver of the copying charge may apply in writing to the Associate Administrator for Administration, and shall state the reasons justifying waiver of the fee in the application.

(g) The testimony obtained in an administrative deposition may be used or considered by the NHTSA in any of its activities, and may be used or offered into evidence in any administrative proceeding in accordance with the provisions of 5 U.S.C. 554, or in any judicial proceeding.

§510.7 General or special orders.

The NHTSA may require by the issuance of general or special orders any person, sole proprietorship, partnership, corporation, or other entity to file with the NHTSA, in such form as NHTSA may prescribe, periodic or spe-

cial reports or answers in writing to specific questions. The responses to general or special orders will provide NHTSA with such information as it may require, including, but not limited to, information relating to the organization of that person, sole proprietorship, partnership, corporation, or other entity, its business, conduct, practices, management, and relation to any other person or entity. General or special orders which are required to be answered under oath are issued by the Chief Counsel. Any general or special order issued under this section contains the information specified in §510.3(b). Reports and answers filed in response to general or special orders must be made under oath, or otherwise, as NHTSA may prescribe.

§510.8 Written requests for the production of documents and things.

The NHTSA may, by the issuance of a written request for the production of documents and things, require any person, sole proprietorship, partnership, corporation, or other entity to produce documents or things. A written request for the production of documents and things may be issued alone, or as a part of a general or special order issued under §510.7. Written requests for the production of documents and things are issued by the Chief Counsel. Any written request for the production of documents and things issued under this section shall contain the information specified in §510.3(b).

§510.9 Motions to modify, limit, or quash process.

(a)(1) Any person, sole proprietorship, partnership, corporation, or other entity served with a subpoena issued under §510.4 may file with the Deputy Administrator a motion to modify, limit, or quash that subpoena. If there is no Deputy Administrator, or the Deputy Administrator is not available, such motions shall be filed with and decided by the Associate Administrator for Administration. A motion to modify, limit, or quash must be filed not later than 15 days after the service of the process or five days before the return date specified in the process, whichever is earlier, except that, if the process is served within five days of its return